

LAKES MANAGEMENT ADVISORY COMMITTEE
NH Lakes Management and Protection Program



New Hampshire Department of Environmental Services
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MEETING MINUTES
October 27, 2006 Meeting
DES Conference Room
9:30 a.m. - 1:00 p.m.

Members present:

Jim Haney, Ph.D., Chair
James S. Morash, Vice Chair
Wendell Berry
Jennifer Czysz
Joe Farrelly
Mark Gallagher
Mark Hemmerlein
Ken Jordan
Mitchell E. Kalter
Marsha LaVallee Huntoon
Fred Murphy
Larry Sunderland

Representing:

Scientific Community, UNH
Tourism, NH Travel Council
NH Business and Industry Assn
Office of Energy & Planning
NH Lakes Association
Commissioner, DOS
Commissioner, DOT
NH Association of Realtors
NH Fish & Game Commission
Conservation Commissions
Member, Planning Board
Conservation Community

Term:

August 22, 2007
August 1, 2007
July 8, 2007
Indefinite
August 1, 2006
Indefinite
Indefinite
June 27, 2008
August 22, 2008
August 22, 2007
August 1, 2008
September 19, 2007

Members not present:

Johanna Lyons
Rich Tichko
Michele Tremblay
Kenneth P. Wilson
Vacant
Vacant

Commissioner, DRED
Exec. Dir., Fish & Game Dept.
State Conservation Committee
NH Marine Trades Association
Elected Municipal Official
Commissioner, Agr. Markets and Food

Indefinite
Indefinite
August 1, 2008
August 22, 2008
August 22, 2003
Indefinite

Staff Present

Jacquie Colburn
Laura Weit
Darlene Forst
Jody Connor
Wayne Ives
Carolyn Guerdet

Lakes Coordinator, Watershed Management Bureau
Asst. Planner, Watershed Management Bureau
Wetlands Bureau
Director, Limnology Center
Water Management Bureau
Admin. Asst., Water Division

Guest

Phil O'Brien
Derek Durbin
Corey Swarts

NHLA nominated new committee member
NH Lakes Association
DOT, Intern

The Meeting Was Called to Order

- Dr. Haney, Chairman, called the meeting to order at 9:35 a.m.

I. Introductions/Minutes/Committee Business

1) Meeting Minutes: September 22, 2006

- Ken Jordan made a motion to accept the minutes as presented. Joe Farrelly seconded the motion and the vote was unanimous.

2) Committee Business:

Travel vouchers were distributed, signed and turned in.

Statements of Financial Interest need to be filled out and signed. Members appointed by Governor and Council must file these forms by January.

3) Upcoming Meetings:

Next meeting is November 17th due to the Thanksgiving holiday; this meeting will be held at DRED, 172 Pembroke Road. The December meeting is December 15th.

4) State Agency/Member Updates:

Mark Hemmerlein/DOT

The Asset Management Committee met and they are geo-referencing all of their properties. This will be done in a number of months. It will be a computerized mapping tool. It will be good to have a database of waterfront properties that DOT owns, leases, and/or has easements on.

Jody Connor/DES

Jody reported that the microcystins testing had been completed for all of the lakes that had posted advisories this summer. Two lakes, Country Pond in Kingston and Phillips Pond in Sandown were extremely high and were over the WHO (World Health Organization) limit for microcystins. Jody also said that milfoil mapping has been completed for those lakes where it is anticipated that grants for treatment maybe requested next spring; 16 – 18 maps were developed.

Darlene Forst/DES

The Shoreland Protection Act Commission met again on October 16th. Previously, the commission voted to recommend a standardized 50 ft. setback for primary structures for all towns; 60 towns currently have lesser setbacks. The commission also recommended using the NH Hydrologic Data Set for determining stream ordering. They also voted to extend the full protection of SPA to 3rd order streams, but will keep the agriculture and forestry exemptions. The commission also agreed that the Saco and Pemigewasset Rivers, which were the last 2 designated rivers exempt under the original language, be no longer exempt.

Recently, the commission discussed a woodland buffer proposal, so within the first 50 feet no cutting of vegetation under 3 feet of height. A point system will be set up; this will allow for selective cutting and does give a minimum vegetation standard. The commission also recommended that the 20 year provision be removed. A work group was formed to discuss the 50 ft to 150 ft section of the setback and what would be allowed for buffer and disturbance. Currently, there are no limits. Impervious surface would be defined and limit of 20% of area within the 50 – 150 ft buffer zone could be developed with 50% of what remains left undisturbed, and landscaping allowed.

Darlene said that a lot of the loop holes have been addressed. The report will be coming and she will get the LMAC copies. The report is due November 30th and any legislation is due December 15th.

Jim Haney asked if other states' regulations and policies had been compared to our proposed regulations? Darlene reported the committee as whole has not looked at that. The woodland buffer workgroup did look at the Maine system and other systems. The impervious surface workgroup did a lot of comparing.

Fred Murphy asked about permitting and how well the public will understand the new proposed limits and if there are any professionals who can help? Darlene said the commission has discussed that instead of requiring another permit, that the State should set the standard of the information required on any permit for anywhere within the protected shoreland, which means the State will set the minimum information that the town will receive if they're going to issue a permit within the protected shoreland. If the town wishes to ignore this information it is a finable offense. Darlene said that there will be set numbers with these recommendations so it should be easier for the public. She also said that the recommendation will be made for additional staff. With the set numbers, the enforcement should be easier and that enforcement will be up to the State.

Jennifer Czysz noted that none of the impervious regulations that are being proposed by the commission are more sophisticated or complex than what municipalities with existing regulations are already using. From the municipal perspective, they have the resources and capability for implementation. Fred said that as a member of a planning board there may be a lot of questions.

Joe Farrelly said that given the diversity of the SPA commission that its ability to come up with these recommendations is a milestone.

Jacque stated that once the proposed legislation is available the LMAC needs to continue to follow it and offer comments, input, and testify (if necessary) as the process moves forward.

There were no other member reports.

Jacque thanked Mitch Kalter for his suggestion to have descriptions of the DES VLAP and VRAP programs included in Fish and Game's, 2007 Fishing Digest. UNH LLMP should also be included. This will allow anglers and others to learn about these programs and possibly get involved.

Mark Gallagher reported that Marine Patrol is recruiting. It is a good summer job and the starting pay has been increased by 20%. Requirements are 18, HS diploma or GED, with training provided in law enforcement and boating experience.

5) Possible Future Agenda Items

SPNHF - New Hampshire's Changing Landscape

DES - Sprawl and Water Quality

National Lakes Assessment - This is a new initiative that EPA is undertaking with assistance from the states. NH is receiving \$8,000 per lake for 13 lakes; there will be one replicate. The assessment will be done through next summer. The sampling will include: core samples, invertebrates, plant life and water quality, however it does not include fish sampling because it is too costly. Fred Murphy suggested that the LMAC visit one of the 13 lakes while it is being tested next summer.

Watershed Conference:

Laura Weit reported that as of 10/27 there were 166 people registered which is a record number and a several sessions are closed. Participants are from a wide range of backgrounds.

II. Stream Gage Taskforce – Wayne Ives, Instream Flow Coordinator, DES

Wayne explained that the taskforce was a recommendation of the Rivers Management Advisory Committee. They recognized that 14 stream gages had been lost and more are being lost to the point that there will be the same number of gages that existed in 1939. We need more data to manage water resources but have less and less data available. Recommendations were made for a long term stable network for the future. People were solicited from various groups which met 3 times. The group completed the work in 7 months and delivered the report on September 15th to Senator Green, Chair of Senate Bill 162 committee. The report is available online.

Wayne's PowerPoint presentation is included at the end of the minutes.

Jim Haney asked if this was looked at as an opportunity to re-think the range and purpose of gaging streams and include turbidity and specific conductance, integrated water samples to see if a watershed is leaking toxins. Wayne stated that if sensors are provided they could be added. He also stated that towns affected could be asked for funding but they are used to getting it for free. Some towns are contributing.

This information will be put in the DES Environmental Monitoring database, so it will be readily available. Wayne is developing a quality assurance plan and a standard operating procedure before that can happen. Joe asked if there was any historical data. Wayne said that no one other than USGS has stored historic stream gage data.

Jacquie asked if any legislation was going forward. Laura reported the RMAC had formed a subcommittee and they're going to be proposing legislation relative to the report. Jacquie asked that Laura keep the LMAC informed about the legislation.

III. Surplus Land Reviews

Jacquie reported that no surplus land items had been received from CORD or DOT to review.

1) Meeting with Governor Lynch and the AG Opinion

Jacquie reported that the response was received from the Attorney General's office and sent out as a PDF document to all LMAC and RMAC members. She indicated that the first full paragraph on page 3 of the letter summarizes the overall opinion. Then the back page, first paragraph on page 4, final sentence, says "the statutes do require however that the recommendations of the advisory committee be received and considered." We are advisory only, however, we will continue to participate in this process and that the other entities involved in the review should be receiving and considering our recommendations.

Jacquie also stated her appreciation to the subcommittee that initially developed the position paper for the LMAC. They met twice before the meeting with the governor. The May position paper was used as the guide and basis for the discussion with the Governor. Talking points, a summary of the issue and the concerns regarding the practice and the process as well as the recommendations presented in the position paper were shared with the Governor.

The meeting with Governor Lynch and Alice Chamberlin was held on September 28th. Those participating in the meeting were the subcommittee, Ken Kimball (RMAC Chair), Steve Couture (Rivers Coordinator), and Jacquie. The Governor was very interested in the issue and is interested in working together. Larry Sunderland said that the Governor wants to make the process more public. Joe Farrelly pointed out that it was his impression that the Governor was not very interested in a Blue Ribbon Task Force. Ken Jordan said that the Governor is looking for the LMAC and RMAC to provide specific actions, and that there isn't an inventory of fair market value. Jim Morash said he thought that the meeting was productive because since then, the Governor has asked Alice Chamberlin not to bring the leases forward to the Long Range Capital Planning and Utilization Committee.

On behalf of their respective committees, Ken Kimball and Jim Morash sent a thank-you letter to the Governor. A note was received back from the Governor expressing interest in working with the LMAC and RMAC.

Steve Couture and Jacquie then met with Alice Chamberlain on October 19th to discuss how to proceed.

Alice Chamberlin has sent a letter to the Commissioners of DRED, DES, Fish and Game, and DOT requesting information regarding waterfront land. DES is having an in-house meeting to respond to the questions.

The subcommittee will be meeting after the LMAC meeting and again next Wednesday.

Mark Gallagher noted that there is a current vacuum on guidance for the decision makers in terms of what should be considered – water quality issues or other impacts. Public trust should be included since the state has an obligation. Derek Durbin noted the NH Lakes Assoc. has been looking at legislation and the establishment of a study commission, but is looking for input from the LMAC. Joe pointed out that time is of the essence if we wish to pursue legislation. Jim M. said that he thinks that we need to be educators.

Jim Haney asked if there were any more ideas for the subcommittee. Mark suggested that the decision makers should hold hearings on these properties and that criteria needs to be considered by the decision makers. The hearings need to be local and at a time of the year when stakeholders are present and notification needs to be posted with enough notice.

IV. Lakes Management Criteria and Lakes Forum

1) Lakes Management Criteria

Laura reported that another email had been sent out to those who had not reviewed the 1996 Lakes Management Criteria with the 33 items which had not yet been addressed yet. She reminded the committee that this was an issue that the LMAC brought forward at the Lakes Forum and that Alice Chamberlin also requested that the LMAC revisit the 1996 document to be sure that there wasn't anything outstanding that the State should be doing. Laura thanked those committee members who had responded and had submitted their top 5 recommendations. She pointed out to the members that she cross-referenced these 33 recommendations with the Action Items raised at the Lakes Forum and where there was overlap or similarity that this has been noted. She then led the full committee through an exercise so the entire group could rank the 33 not yet addressed recommendations from the Management Criteria. Everyone was allowed to vote for their top 5 of the 33 recommendations.

The top 5 recommendations chosen by the Committee are as follows; note - there was a tie for the #1 priority:

- 1a) Finding: Page 5 (1.0) Cumulative impacts from individual development activities in a watershed and the subsequent effect that development may have upon a waterbody, are not sufficiently addressed in existing state regulations.
Recommendation Page 5: (1.1) A review of applicable state laws should be conducted by DES, OSP (now OEP), and other appropriate agencies and organizations. Revisions to existing state laws or new laws to address cumulative impacts should be developed.
- 1b) Finding: Page 1: (1.0) The State of NH has not clarified the regulatory role of the Wetlands Board (now Bureau) regarding preservation of the public trust and minimization of environmental impacts to the state's waterbodies
Recommendation Page 1: (1.1) The general court should promulgate legislation to address this issue and thereby set forth a policy for the Wetlands Board (now Bureau).
- 3) Finding: Page 5 (1.0) Cumulative impacts from individual development activities in a watershed and the subsequent effect that development may have upon a waterbody, are not sufficiently addressed in existing state regulations.
Recommendation Page 5: (1.2) The Legislature should consider the revisions proposed by the agencies and should amend state laws to address cumulative impacts.
- 4) Finding: The effect of fluctuating water levels upon water quality, shoreline integrity and aquatic life has not been determined.
Recommendation Page 3: (3.1) DES working in cooperation with UNH and Fish and Game should investigate and jointly issue a report outlining the effects of fluctuating water levels.
- 5) Finding: According to RSA 483-A 1.5 DES is responsible for determining that recreational uses of lakes are compatible with the character of each lake. The State has no process to manage present and potential recreational use impacts to a waterbody.
Recommendation Page 16: (1.1) The State should provide funding to DES to study and implement a method and process which would assess recreational uses and their impacts to the character and quality of each lake.

Laura explained that these will be added to the end of the Lakes Forum spreadsheet so they can all be tracked in the same document. Jacquie restated that what we want to make clear to the Governor, is that in the 1996 Management Criteria and in our 2006 Lakes Forum, that these are the items that are coming up as high priorities and that we have included recommended steps regarding how to address them. It will be presented as, 'from the perspective of the LMAC these are things we need to focus on from 1996 and 2006 to help move the state forward in addressing lake management issues'.

- **The Committee requested that the next meeting focus on determining how the above mentioned recommendations will be implemented.**

2) Lakes Forum

Laura also did a quick update regarding the status of the Lakes Forum Action Items. Mitch and Jim M. suggested that Action Item 9.1 be redefined to address the 'process' for surplus land reviews.

Laura asked and it was determined that next steps would be:

1. Get responses from the departments regarding the Action Items. Additional information is coming from Fish & Game and NHLA.
 2. Return with those answers to LMAC.
 3. Set up more specific objectives on the recommendations that have been made.
 4. Have a new spreadsheet for the December meeting.
- **At 12:30 pm the Committee broke for lunch.**
 - **The meeting reconvened at 12:45 pm.**

V. Other Items and/or Issues

Derek Durbin reported that there are bills that NHLA is working on drafting. LSRs are beginning to come in. To date, only 2 are related to lakes:

Sen. Johnson has submitted an LSR relative to posting notices on waterbodies invaded by milfoil and other exotic aquatic plants. Sen. Jack Barns has submitted an LSR relative to public access to public waters and requiring public boat access to Big Island Pond in Hampstead.

Due to time constraints, Jacquie quickly reviewed the "LMPP/LMAC Statute Review and Priorities for 2006" where we are with review of statute and other areas of importance. Of the 18 items identified – 9 have been addressed and/or are being worked on, others to be attended to.

Joe Farrelly announced his resignation and then shared his memories of his 14 years on the LMAC. Joe introduced Phil O'Brien as the NHLA nominee to replace him.

- **Jim Morash brought forward a motion to adjourn at 1:08 pm. Mitch Kalter seconded the motion. All were in favor.**



SGTF Update

**LMAC meeting
October 27, 2006**



A strategy to implement and fund a long-term, multi-purpose New Hampshire Stream Gage Network

- ☐ RMAC Strategy and Resolution – 11/23/2005
- ☐ Commissioner approval – 2/1/2006.
- ☐ Meetings
 - May 2
 - June 26
 - August 23
- ☐ Report - September 15, 2006

Existing gages assessed

Gage ranking for this Data Use: 1) Vital; 2) Supporting; 3) Better gage needed

NH F&G	NHDES WWEB	Consulting (NAI)	NHST	USAC OE	NH ISF	NH WMB	USF&W	USGS	NHDES Dam Bureau	Rivers Management Local Advisory Committees	UNH	PSU	NHGS
1		1	1				1	1	2				1
1	2	2				2	1	1	2				1
1	1	2				2	1	1	2				1
1	1	2				1	1	1	2				1
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1	1	2	1			2		1	2		1		1
1		1			2	2		2	2	2	1		1
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1		2				1	2	2	2				1
1		2				2		3	2				1
1	1						1	1	1				1
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1				1	1	1	1	1	2	1			1

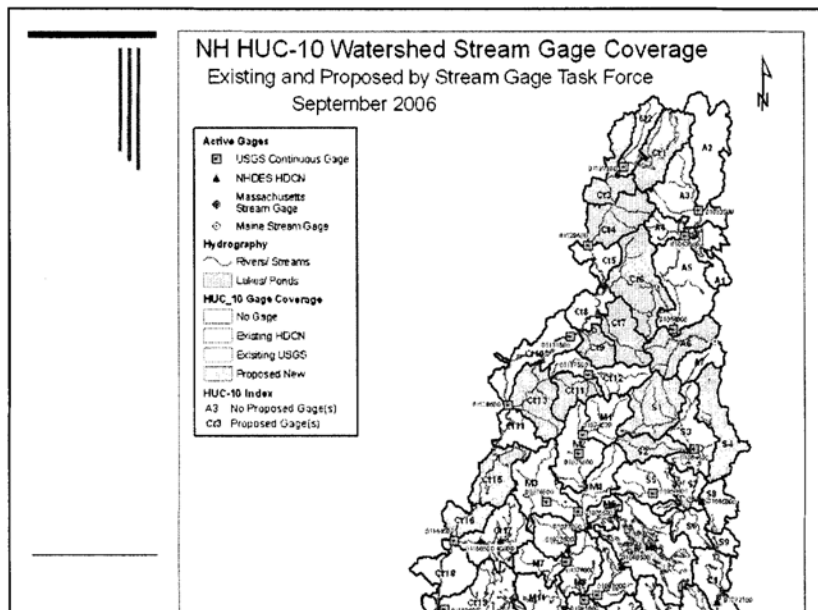
■ Real-time Flow Data Needs

- Flood control and response
- Reservoir management F
- low availability
- Water related permit conditions implementation and monitoring

■ Historical Flow Data Needs

- Water availability and flow assessments
- Hydrologic trends and statistical assessments such as climate change, and regression analysis for ungaged streams
- Hydraulic design and geomorphology studies
- Waste and Water Chemistry assessment

H2 Flood control and response											
Priority ranking: 1 = Currently needed, 2 = Replaces a less adequate gage, 3 = Anticipated future need											
Identified Gap in Stream Flow Gaging Network											
Rank Top 10	SOTF Ranking as High Medium Low	HUC-10 Index number	Priority (1, 2, or 3)	Proposed Gage # (1) Temporary or (2) Permanent	Proposed Gage # (3) Continuous or (4) Partial Record	Description of gap (Include details on any of the following applicable to the proposed gage) location, ecoregion, physiographic region, drainage area, slope, elevation, National Wetlands, precipitation. Include written description of the purpose for the gage. Describe whether the proposed gage is currently needed, upgrade to an existing gage, would replace a less adequate gage, or is an anticipated future need.					Real-time Flow Data Needs
4		A6	3	P	C	Moose River, Oxbow area, trib. to Androscoggin abv. Town					X
5		A6	1	P	C	Peabody River, Oxbow area, trib. to Androscoggin bel. Town					X
6		C2	1	P	C	01072870 Intrigant River at Dover, NH, DA=73.6, NH Designated River, upstream from landfill site					X
7		C2	3	P	C	Located on the upper Intrigant. There is a short (3 mile) segment with no registered water gages on the Designated River, but the river has a large water withdrawal on a tributary. Intrigant River: Gage needed on upper river (usually gaged near Dover)					
8		C2	3	P	C	Described river. Located on the upper Intrigant. Need is related to NPDES permitting and compliance issues for possible new POTW in Raymond.					
9		C3	3	P	C	Upper Lamprey River near Epping, NH, supplement to Packard Falls gage.					X
10		C3	1	P	C	Lamprey River NW corner Raymond, NH, encompassing HUC12010600030702 and HUC12010600030701					X
11		C3	1	P	C	01073460 North River at Lee, NH, DA=35.6, confluence tributary to the Lamprey River					X
12		C3	1	P	C	Squamscott River, Newmarket, Newfield, Exeter area, coastal, various water uses					X
13		C4	1	P	C	Located on the upper Exeter River to support water use assessments on the upper 9 miles of river with one registered water user.					
14		C4	3	P	C						



Recommendations

- ☐ Retain all the existing gages
- ☐ Add gages in 17 HUC-10 watersheds
- ☐ Develop a funding mechanism to implement this network

Rivers Management and Protection Program (RMPP)

Rivers Management Advisory Committee

NH Stream Gage Task Force



Looking upstream at USGS gage 01073587 on Heigh Rd. in Brentwood

New Hampshire has been losing stream gages since 1969 and by 2007 the stream gage network will be at its lowest numbers since 1939. Recognizing the drastic loss of 14 stream gages in 2004-2005 that resulted from impermanent funding sources, the Rivers Management Advisory Committee determined the need for a strategy to implement and fund a long-term, multi-agency stream gage network within the state to preserve the RMPP's

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